

Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 74 – Milk and Dairy

CHAPTER 01 REGULATION GOVERNING THE MANUFACTURE AND SALE OF FROZEN DESSERTS

100 Purpose

This regulation prescribes sanitary practices relating to the transport, processing, packaging, storage and distribution of frozen desserts. The ultimate concern of this regulation is the quality of frozen dessert offered to the consuming public.

101 Authority of Regulation

The State Board of Health is authorized to promulgate these rules and regulations and exercise control over the processing and sale of frozen desserts under and by virtue of sections 75-31-41 through 75-31-49 of the Mississippi Code of 1972, Annotated.

102 Permits

It shall be unlawful for any person who does not possess a permit from the Mississippi State Department of Health to bring into, send into or receive into the state of Mississippi or its jurisdiction, for sale, or to sell, or offer for sale therein or to have in storage any frozen dessert products defined in this regulation. Provided, that grocery stores, restaurants, soda fountains and similar establishments where frozen dessert products are served or sold at retail, may be exempt from the requirements of this section.

Each frozen dessert manufacturer shall obtain an annual permit. An application for a permit shall be made to the Health Authority upon forms provided by the Health Authority and shall contain such information as the Health Authority may require. Each application for a permit shall be accompanied by a permit fee in the amount set forth in the Mississippi Law payable to the Mississippi State Department of Health. When the Health Authority is in receipt of all required information and the permit fee, the annual permit shall be issued.

Each permit shall be issued from the date permitted until June 30th each year.

Only a person who complies with the requirements of this regulation shall be entitled to receive and retain such a permit. Permits shall not be transferable with respect to persons and/or locations.

102.01 **Suspension/Revocation of Permit**

When any requirement(s) of this regulation is violated, the permit holder is subject to the suspension of his/her permit. The regulatory agency may forego suspension of the permit, provided the product or products in violation are not sold or offered for sale.

The regulatory agency shall suspend such permit, whenever it has reason to believe that a public health hazard exists; or whenever the permit holder has violated any of the requirements of this regulation; or whenever the permit holder has interfered with the regulatory agency in the performance of its duties: provided, that the regulatory agency shall, in all cases except where the frozen dessert product involved creates, or appears to create, an imminent hazard to the public health; or whenever adulterated or misbranded frozen dessert products are found: or in any case of a willful refusal to permit authorized inspection, serve upon the holder a written notice of intent to suspend permit, which notice shall specify with particularity the violation(s) in question and afford the holder such reasonable opportunity to correct such violation(s) as may be agreed to by the parties, or in the absence of agreement, fixed by the regulatory agency before making any order of suspension effective. A suspension of permit shall remain in effect until the violation(s) has been corrected to the satisfaction of the regulatory agency.

Upon repeated violation(s), the regulatory agency may revoke such permit following reasonable notice to the permit holder and an opportunity for a hearing.

102.02 **Hearings**

If requested in writing, a hearing shall be scheduled within the State Department of Health not less than ten days nor more than 30 days following receipt of the request. On the basis of such hearing, the State Department of Health shall make a decision with the respect to proposed action. This decision, together with the finding of the hearing officer and reasons for the decision, shall be forwarded to the owner/applicant within 30 days of the hearing.

102.03 **Reinstatement of Permits**

Any frozen dessert manufacturer whose permit has been suspended may make written application for the reinstatement of his/her permit. Within one (1) week of the receipt of notification of any person whose permit has been suspended, the Health Authority shall make such inspection(s) and/or take samples as deemed necessary to determine compliance with the requirements of this regulation.

Whenever the permit suspension has been due to a violation of a requirement other than bacteriological, coliform, drug residue test, or cooling temperature standards, the notification shall indicate that the violation(s) has been corrected.

Within one week of the receipt of such notification, the regulatory agency shall make an inspection of the applicant's establishment, and as many additional inspections thereafter as are deemed necessary, to determine that the applicant's establishment is complying with the requirements. When the findings justify, the permit shall be reinstated.

103 **Examination or Sampling of Frozen Desserts**

Frozen dessert samples for laboratory analysis may be collected by the Health Authority as often as necessary for the enforcement of the regulation.

104 **Labeling**

Prior to an issuance of a permit to a manufacturer of frozen desserts regulated by the State Department of Health, labels shall be submitted to the Health Authority for review and approval. All containers and packages enclosing frozen dessert products defined in this regulation shall be labeled in accordance with the applicable requirements of the Federal Food, Drug and Cosmetic Act as amended, the Nutrition Labeling and Education Act of 1990 and 21 CFR Part 101.

105 **The FDA - Milk Safety Branch Frozen Dessert Processing Guidelines shall become requirements of this regulation.**